

REMARKS**Election/Restriction**

In the instant Office Action, the Examiner has stated that

[p]ursuant to 35 U.S.C. 121 and 37 C.F.R. 1.141, the polypeptides, proteins, nucleic acid sequences and amino acid sequences listed in claims 1, 3-6, 13, 23, 24, 26, 27, 37, 39 are subject to restriction. As per M.P.E.P. 2434, the Commissioner has partially waived the requirements of 37 C.F.R. 1.141 and will permit a reasonable number of such sequences to be claimed in a single application. Under this policy, in most cases, one independent and distinct sequence will be examined in a single application without restriction. Those sequences which are patentably indistinct from the sequence selected by the applicant will also be examined.

Claims 1, 3-6, 13, 23, 24, 26, 27, 37, 39 specifically claim variable sequences derived from SEQ ID Nos. 1-6. Each of these sequences is considered to be structurally independent and distinct, because each of these sequences has a unique sequence. Furthermore, a search of all the sequences claimed, including any and/or all variations of each sequence claimed, presents an undue burden on the Patent and Trademark Office to search and examine all of the recited sequences. In view of the foregoing, applicants are required to elect one claimed sequence from claims 1, 3-6, 13, 23, 24, 26, 27, 37, 39.

Applicants hereby elect, with traverse, SEQ ID NO:1 and corresponding amino acid sequence SEQ ID NO:2, under 35 U.S.C. §121, for prosecution in the present application.

Applicants traverse the restriction on the grounds that, as stated by the Examiner, the policy set forth in 1192 O.G. 68 (Nov. 19, 1996) clearly provides that a *reasonable number* of sequences are allowed to be claimed in a single application. It has been determined that "normally ten sequences constitute a reasonable number for examination purposes" and, thus, up to ten independent and distinct sequences are often examined in a single application without restriction. M.P.E.P. §804.4 and 1192 O.G. 68 (Nov. 19, 1996). In the interest of saving considerable time and cost to Applicants and


the United States Patent Office, and in accordance with 1192 O.G. 68 (Nov. 19, 1996), Applicants respectfully request that at all three nucleotide sequences (and corresponding amino acid sequences) be examined in the instant application.

Applicants reserve the right to traverse the above restriction with respect to non-elected sequences in this or subsequent applications.

SUMMARY

If a telephone conversation with Applicants' Attorney would expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 227-7400.

Respectfully submitted,



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